



Appeal Decision

Site visit made on 15 September 2025

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2025

Appeal Ref: APP/L3815/W/25/3365617

Land East of 6 Penny Lane, Southbourne, West Sussex PO10 8HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Alex Ward against the decision of Chichester District Council.
 - The application Ref is 23/02209/FUL.
 - The development proposed is 2 no. detached dwellings and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for 2 no. detached dwellings and associated works at Land East of 6 Penny Lane, Southbourne, West Sussex PO10 8HE in accordance with the terms of the application, Ref 23/02209/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The address listed on the application form refers to the dwelling located in front of the appeal site, rather than the land to the rear. Accordingly, the site address in the banner heading above has been amended to align with the address provided in the appeal form, as this more accurately reflects the location of the appeal site.
3. The development plan against which the application was determined has changed, as Chichester District Council adopted a new local plan in August 2025. On this basis, and in the interest of clarity, the Council was asked to confirm the policies that they would wish the appeal to be determined against. The appellant was given the opportunity to comment on the policies relied on. I have therefore determined the appeal based on policies provided by the Council from the Chichester Local Plan 2021-2039, adopted in August 2025 (Local Plan).
4. To address the Council's third and fourth reasons for refusal, the appellant has submitted a completed unilateral undertaking (UU), pursuant to section 106 of the Town and Country Planning Act 1990, in respect of contributions towards: i) the provision of access mitigation measures in respect of recreational impacts upon the Chichester and Langstone Harbours Special Protection Area (the SPA); and, ii) towards A27 junction infrastructure improvements. This will be addressed further in my decision. The Council have also confirmed that subject to conditions, reasons for refusal five and six (relating to drainage and visibility) have been overcome.
5. Reference is made to policies SB1, SB3 and SB4 in the Southbourne Neighbourhood Plan (NP). Within the NP, the policies do not include the prefix SB, but the reasoning in the evidence is clear that policies SB1, SB3 and SB4 of the NP relate to policies 1,3 and 4 within the document.

Main Issues

6. The main issues are:

- whether the proposal is appropriate in the countryside having regard to the Council's spatial strategy; and;
- the effect of the proposal on the character and appearance of the area.

Reasons

Location

7. The access and western section of the appeal site is located within the settlement boundary of Southbourne, with the location of the proposed dwellings being just outside of it. Policy 1 of the NP supports proposals located inside the settlement boundary and requires those outside of it, to conform to development plan policy, in respect of the control of development in the countryside. This aligns with Policy S2 of the Local Plan, whereby development outside of a settlement, is restricted to that which requires a countryside location or meets an essential local rural local need or supports rural diversification, in accordance with Policy NE11 of the Local Plan.
8. Evidence has not been submitted to demonstrate that the proposal requires a countryside location, meets an essential local rural local need, or supports rural diversification. Instead, the appellant makes reference to paragraph 11d of the National Planning Policy Framework (The Framework) arising from the Council being unable to provide a five year housing land supply. However, this position has altered since the adoption of the Local Plan as the Council can now demonstrate a five year housing land supply.
9. For the above reasons, the proposal is not appropriate in the countryside having regard to the Council's spatial strategy. It is therefore contrary to Policies 1, 3 and 4 of the NP and Policies S1 and S2 of the Local Plan. These policies collectively seek to restrict development in the countryside.

Character and Appearance

10. The appeal site is accessed from Penny Lane which is characterised by a mix of built form, including chalet style bungalows and detached and semi-detached two storey properties. Plots on Penny Lane and surrounding the site are irregular in terms of size, depth, shape, width and orientation.
11. The proposed dwellings would be located to the rear of 6 Penny Lane and have been designed to integrate with the existing built form by replicating materials and roof forms that are evident along Penny Lane. Due to the low eave's height, being positioned towards the rear of the plot and predominantly behind 6 Penny Lane, the proposed dwellings would not be highly visible within the street scene nor from the properties to the west.
12. Although the proposed dwellings would be situated within the existing rear garden of 6 Penny Lane, the garden is sufficiently spacious to accommodate the development while maintaining plot sizes that are consistent with neighbouring properties. Concerns have been raised regarding potential overdevelopment and a lack of respect for the established rhythm of development. However, given the

varied and irregular plot configurations in the surrounding area, the proposal would respect the prevailing pattern of development.

13. For the above reasons, the proposal would have an acceptable effect on the character and appearance of the area. It would therefore be compliant with Policies P1, P2, P3 and P4 of the Local Plan. Amongst other things, these policies seek good design, require proposals to make an efficient use of land and integrate with the built environment.

Other Matters

14. The submitted UU includes obligations which would come into effect if planning permission were to be granted. I have considered the obligation in light of the Framework and Planning Practice Guidance (PPG). These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
15. The Local Plan requires all new housing in the southern part of the plan area to contribute to a scheme of infrastructure improvements to the strategic road network (A27). The UU provides the required contribution which would support infrastructure improvements to junctions on the A27 Chichester Bypass along with other small-scale junction improvements to increase road capacity, reduce traffic congestion, improve safety and air quality, and improve access to Chichester. The contribution has been calculated based on the A27 Chichester Bypass Developers Contribution Analysis for Strategic Development Options and Sustainable Transport Measures¹ document, and I am satisfied that this obligation meets all three planning obligation tests and is necessary.
16. The appeal scheme proposes two dwellings on a site that lies within the zone of influence of the SPA. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the Habitat Site. The effects arising from the proposal need to be considered in combination with other development in the area adopting a precautionary approach.
17. Since the development is for two dwellings, the number of additional recreational visitors would be modest and the likely effects on the SPA from the proposal alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
18. The site is within the 5.6km zone of influence of the SPA where new residential development is likely to result in recreational pressure, which would both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the SPA. Therefore, I consider that the development would have an adverse effect on the integrity of the SPA, but regard can be had to whether these adverse effects can be mitigated.

¹ Dated October 2015

19. Policy NE6 of the Local Plan sets out appropriate mitigation measures to ensure that there will be no adverse effect on the integrity of the SPA. One of these measures, is a contribution outlined in the Bird Aware Solent Strategy (BASS) which details mitigation measures that would be funded by financial contributions at a specified tariff per bedroom. The appellant has provided a UU that would provide the required financial contribution and Natural England do not object based on securing the required mitigation. The contribution has been calculated based on the BASS and I am satisfied that this obligation meets all three planning obligation tests and is necessary.
20. I have carefully considered the representations made by interested parties regarding the potential impacts of the proposal on traffic, parking provision, housing quality, and the living conditions of neighbouring occupiers, particularly in relation to privacy, outlook, and noise. I am satisfied that the scheme would provide sufficient parking for both residents and visitors. In addition, the separation distances between existing and proposed dwellings would preserve an acceptable standard of outlook for neighbouring properties. Regarding concerns about overlooking from the first floor window in the flank elevation of Plot 2 towards 125 and 127 Main Road, I note that this window would not serve a habitable room. As such, any views from it would be limited and would not result in unacceptable harm to privacy. Furthermore, objections relating to inadequate natural light and potential subsidence are not substantiated.
21. Comments have been received regarding errors on pages 36 and 37 of the appellant's statement, and these have been noted. Additionally, concerns were raised about the notification of neighbouring properties in relation to the application. However, all properties required to be notified were informed of the appeal, thereby ensuring that affected parties had the opportunity to provide comments on the proposal.

Conditions

22. I have considered the suggested conditions in light of the Framework and the PPG. In the interests of precision, clarity and brevity I have undertaken some rationalisation and rewording of the conditions suggested. Some of those conditions are pre-commencement conditions. I have sought and obtained the written consent of the appellant for the pre-commencement conditions which I have imposed.
23. In addition to the standard time condition, it is necessary for a condition to list the approved plans in the interest of certainty.
24. Pre-commencement conditions are necessary to safeguard existing trees and vegetation and to ensure appropriate drainage measures are in place. Furthermore, as the appeal site is located within an area where treated effluent discharges into designated protected sites including the Chichester Harbour Site of Special Scientific Interest, the Chichester and Langstone Harbours Ramsar Site, and the Solent Maritime Special Area of Conservation, a pre-commencement condition is required to demonstrate that suitable mitigation has been secured. This is specifically in relation to the potential impact of nitrate emissions from the proposed development on these sites.
25. A condition is required to meet the objectives of the Local Plan for proposals to demonstrate sound sustainable design, good environmental practices, sustainable

building techniques and technology, including the use of materials that reduce the embodied carbon of construction and make use of re-used or recycled materials.

26. Conditions have been imposed to control the external finish of the development and hard and soft landscaping to ensure high quality design that respects the character and appearance of the area. Additional conditions secure ecological mitigation and enhancement, restrict external illumination, require adherence to arboricultural good practice and a drainage strategy. These conditions are required to protect wildlife and vegetation, provide biodiversity enhancement and deliver adequate drainage.
27. Further conditions are required to secure visibility splays, vehicle parking and turning spaces and cycle and refuse storage. These conditions are required to provide a safe vehicle access, adequate onsite parking, an alternative travel option in accordance with sustainable transport policies and secure refuse storage for future occupiers.
28. The Council suggested conditions requiring the submission of a Construction and Environmental Management Plan (CEMP) and details of the site set up during construction. Given the small scale of the proposed development and the ability to park on site, a CEMP would not be necessary for highway safety nor neighbouring amenity. In addition, given conditions requiring fencing to protect trees and hedgerows, the setup of the site during construction would already be controlled.
29. A condition was suggested removing permitted development rights but sufficient justification for this condition has not been provided and given that the proposed plots are a good size, the condition would neither be reasonable nor necessary. A further condition is suggested to control the noise arising from air source heat pumps but given the separation distances between the proposed plots and existing properties, this condition would not be necessary.
30. The occupiers of 4 Penny Lane have suggested conditions requiring any windows facing their property to be obscurely glazed, along with the installation of pleached trees, a raised trellis, or a fence extension along the shared boundary. These measures are proposed to preserve the outlook from No. 4, minimise overlooking, and prevent direct views into habitable rooms or outdoor amenity space. While the proposed access would run parallel to the flank elevation of 4 Penny Lane, vehicles and pedestrians using the access would not be able to see above the existing fence line. Furthermore, the access lane would not compromise the outlook from No. 4, as there are no first-floor windows facing the proposed access.
31. Regarding potential overlooking and privacy, although the proposed dwellings would include first-floor windows in their front elevations, the separation distance between No. 4 and the new properties would be sufficient to maintain an acceptable level of privacy.

Conclusion

32. The proposal is not appropriate in the countryside having regard to the Council's spatial strategy. However, the harm arising from this conflict is limited due to the site partly being within the settlement boundary. In addition, the site is well connected to the existing settlement as it is located close to the main road between Emsworth and Southbourne where there is a footpath and multiple bus stops.

33. The proposal would provide two dwellings incorporating technologies for improved sustainability and reduced energy consumption that would have an acceptable effect on the character and appearance of the area. Whilst the proposal would not strictly provide one or two bedroom properties to address local need, the dwellings are modest in size and could reasonably be occupied by small families alike a two bedroom dwelling. As a result, the proposed dwellings would positively contribute towards meeting the housing requirements of the parish. These benefits are given significant weight.
34. The proposed development would conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal is allowed.

V Goldberg

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 1553/DP100, 1553/DP101, 1553/DP102, 1553/DP104, 1553/DP105, 1553/DP106, 1553/DP107, 1553/DP108, 1553/DP109, 0500 REV P02, 0502 REV P02, 0510 REV P02, LLD2940-ARB-DWG-001 REV 01, LLD2940-ARB-DWG-002 REV 00, SSPENNYLANE1/05 REV P3, 1553_DP103-02, AAL320-AAL-XX-XX-RP-C-0100_P01_FRA, SSPENNYLANE.1/TK16 REV P3, SSPENNYLANE.1/TK17 REV P3, SSPENNYLANE.1/TK18 REV P3, AAL320-AAL-XX-XX-DR-C-0501_P02.
- 3) No development shall commence, including demolition, until protective fencing has been erected in accordance with the Arboricultural Impact Assessment Report and Method Statement and Tree Retention and Protection Plan (drawing number LLD2940-ARB-DWG-002 REV 00) prepared by Lizard dated July 2023.

Thereafter the fencing shall be retained for the duration of the works, unless otherwise agreed in writing by the Local Planning Authority. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced area; soil levels within the root protection area of the trees/hedgerows to be retained shall not be raised or lowered, and there shall be no burning of materials where it could cause damage to any tree or tree group to be retained on the site or on land adjoining at any time.

- 4) No development shall commence unless and until the off-site drainage works at 119 Main Road, have been carried out in accordance with a full surface water drainage scheme for the development, that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all onsite and off-site drainage works. No dwelling hereby permitted shall be occupied until the complete surface water drainage system serving that property has been implemented fully in accordance with the approved surface water drainage scheme.
- 5) No development shall commence unless and until evidence of the legal agreement between third parties at 119 Main Road has been submitted to the Local Authority for the easement of access of the proposed surface water culvert and thereafter this easement shall be retained in perpetuity.
- 6) Prior to any works commencing on site the notice of purchase for the hereby permitted nitrates mitigation scheme shall be submitted to and approved in writing by the council. Once approved the hereby permitted permission shall be read in conjunction with the Notice of Purchase in accordance with the requirements of the legal agreement between CDC, SDNPA and John Holt dated 21.12.2022 in respect of the Credits Linked Land identified in the Nutrient Neutrality Assessment and Mitigation Strategy Report (dated 18th April 2023) submitted with the application.

- 7) No development above ground level shall take place until a strategy outlining details of the sustainable design and construction for all new buildings, including water use, building for life standards, sustainable building techniques and technology, energy consumption maximising renewable resources, and how a reduction in the impacts associated with traffic or pollution will be achieved including but not limited to charging electric vehicles, has been submitted to and approved in writing by the Local Planning Authority. This strategy shall reflect the objectives in Policy P1 of the Local Plan. The approved strategy shall be implemented as approved prior to first occupation unless any variation is agreed in writing by the Local Planning Authority.
- 8) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 9) The following ecological mitigation measures shall be adhered to at all times during construction:
 - a) Due to the potential for wildlife within the existing hedgerows to be retained a buffer around the hedgerows shall be maintained during the course of the development. The buffer shall be clearly marked with a temporary fence and at no time shall any works take place within the buffer and no vehicles, equipment or materials be stored within the buffer at any time.
 - b) Any brush piles, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs and therefore shall be removed outside of the hibernation period (mid- October to mid-March inclusive). If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work)
 - c) If any works need to take place to the trees or for vegetation clearance within the site, works should only be undertaken outside of the bird breeding season which takes place between 1st March 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).
- 10) The development hereby permitted shall be carried out in accordance with the submitted "ARBORICULTURAL IMPACT ASSESSMENT REPORT AND METHOD STATEMENT" dated 26th July 2023 unless otherwise agreed in writing by the Local Planning Authority.
- 11) The development hereby permitted shall be carried out in accordance with the mitigation measures and enhancements within "Bat Activity Survey" dated August 2022. The enhancements shall be provided prior to first occupation and retained as such unless otherwise agreed in writing by the Local Planning Authority.
- 12) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment & Drainage Strategy Report, Dated 13.08.2024, unless otherwise agreed in writing by the Local Planning Authority.

- 13) No part of the development shall be first occupied until visibility splays of 2.4 metres by 43 metres have been provided at the proposed site vehicular access onto Penny Lane in accordance with the approved planning drawings. Once provided the splays shall be maintained and kept free of all obstructions over a height of 0.6 metre above adjoining carriageway level or as otherwise agreed.
- 14) Before the development is first occupied a scheme detailing hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include plans showing the proposed means of enclosure; details and samples of the hard surfacing materials; and a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities and a programme for the provision of the hard and soft landscaping. The works shall be carried out in accordance with the approved details and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. The approved scheme shall be carried out in the first planting season after practical completion or first occupation of the development, whichever is earlier, unless otherwise first agreed in writing by the Local Planning Authority. Any trees or plants which, after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.
- 15) The development hereby permitted shall not be occupied until the following ecological enhancements have been implemented.
 - a) The integration of a bat box into the dwellinghouse(s) hereby approved, or the provision of a bat box within a tree sited within the grounds of the development proposal.
 - b) The integration of a bird box to the dwellinghouses hereby approved or within a tree sited within the grounds of the property.
 - c) The provision of hedgehog nesting boxes within the site.

Thereafter, the ecological enhancements shall be retained and maintained in perpetuity.

- 16) The development hereby permitted shall not be occupied until the domestic refuse and recycling storage facilities including provision of green waste bins to service that part of the development have been provided in accordance with the approved plans. Thereafter the domestic refuse and recycling storage facilities shall be maintained as approved and kept available for the lifetime of the residential units.
- 17) The development hereby permitted shall not be occupied until a secure and covered cycle parking layout has been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority.
- 18) The development hereby permitted shall not be occupied until vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

- 19) No external illumination shall be provided on the site other than in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed location, level of luminance and design of the light including measures proposed to reduce light spill. Thereafter the lighting shall be maintained in accordance with the approved lighting scheme in perpetuity.